

1897-028 Chancery Causes, M. G. Ely vs. John B. Callahan & Lee Co.

Thomas

CA-Contract Dispute
T-Property

-Deed

To the Hon. W. J. Miller, Judge of the circuit
Court of Lee County, Va.

Humbly Complaining, your orator M. G.
Ely respectfully represents that he is beneficiary
in a deed of Trust executed to A. C. Ely,
Trustee, on the 14th day of August, 1895, by John
B. Calliham, which deed of Trust is here filed
marked "A" and is prayed to be taken as part
of this bill.

Your orator further represents that a
~~deed of Trust~~ ^{writing} was executed to H. Thomas
on the 8th day of June, 1894, by the said John B.
Calliham on the same land, an office copy
of which is here filed marked "C"; that there
is now pending a Chancery suit in your
Honorable Court, the object of which is to
set aside said last-named deed of
Trust on account of a failure of Con-
sideration; that ~~John B. Calliham~~ ^{Catherine Thomas} is the beneficiary
in the last-named writing and H. Thomas is
supposed to be Trustee, at least he assumes to be,
and as such he on the 7th day of Oct- 1895
advertized that he will sell the land named
in each of said papers on the 6th day of
November, 1895.

Now, your orator alleges that the last-
named deed of Trust is without Consideration.
The prayer of your orator is that J. H. Thomas, Trustee,
for the benefit of ~~John B. Calliham~~ ^{Catherine Thomas} be enjoined
and prohibited from selling said land till
said last-named suit is decided; that
J. H. Thomas, Trustee, and John B. Calliham
and Catherine Thomas

be made parties defendant to this bill
and that they answer the same but not
upon oath, that being waived; that process
issue &c., directed &c., and that general
relief be granted your order and as in duty
bound he will ever pray.

Wm A. Orr
Atty for M. J. Ely.

Virginia, Lee County, to-wit:

J. A. ~~B.~~ Mursey Clerk of the circuit Court
of Lee County, Va, do certify that
Wm A. Orr, Atty for M. J. Ely, appeared
before me in my Office this day
and made oath that the facts
stated in the foregoing bill are true.
This 8th 11th 1895. J. A. Mursey Clerk

Plffs Costs
 Clerk 16.00
 Tax 1.50
 Shff 1.00
 atty 15.00
 Co. C 60
 \$24.70

M. A. Ely

vs Bill Dwy

John B. Callahan et al

Injunction granted
 pursuant to the prayer
 of the bill, but not to
 be effectual till the plff
 or some one for him shall
 execute bond as required
 by law in the penalty
 of \$50⁰⁰ to the clerk of the
 the circuit of
 of the law

1895 Dec rules bill
 filed & Spa executed
 as to J. H. Catherine
 Thomas D. Nasto them
 11th 2nd Dec rules D. N. Conf
 & Cause set for hearing

Wm A. Orr Jr, Atty.

M. G. Ely Off-
no. 55 In Chancery -
John B. Callahan et al. Defts

This cause came on this day to be heard upon the bill of complainant and exhibits filed therewith, and process duly executed upon the defendants, J. H. Thomas and Catharine Thomas, and they to appear plead answer and deny the same is taken for confessed as to them, And was argued by counsel,

On consideration of which, and it appearing that the matters in controversy have been settled in another cause pending in this court, the court doth adjudge, order and decree that the plaintiff recover of the defendants his costs of this suit to be taxed by the clerk, for which execution may issue, And the cause is stricken from the docket,

M. G. Ely
No ~~EE~~ Dear -
J. B. Callahan, et al -

C. O. B. p. 577-8.

Enter this

N I M

June 8th / 1897

This indenture, made this the 16th day of
August 1895 between John B. Callihan of the
one part and A. C. Ely Trustee of the second
part both parties of the county of Lee and state of
Virginia, Witnesseth that whereas the said John
B. Callihan is justly indebted to M. G. Ely in
the sum of Fifty dollars with interest from
the 16th day of August 1895 till paid, as appears by
the bond of the said John B. Callihan, bearing
date the 16th day of August 1895 and due twelve
months after the date thereof, which said debt
with interest aforesaid. The said John B. Callihan
binds himself to pay whenever and is now
more desirous to effectually to secure; Now therefore
this indenture witnesseth, that the said John B.
Callihan for and in consideration of the premium
and of one dollar in hand paid the receipt
of which is hereby acknowledged doth, grant
bargain sell and convey unto the said A. C. Ely
with covenants of general warranty
all that certain tract or parcel of land situated
in Lee County Va. it being the same tract which
was conveyed to the said John B. Callihan
by Ethel Wythe which said tract or parcel of
land is bounded by the lands of Josephus Graybill
A. H. Fulkerson, Abe Barber and Marion Wolfe
containing 43 acres more or less. In Trust
nevertheless, and for the use, interest and purpose
following, and none other namely: That the said
John B. Callihan shall be suffered to remain in quiet-

and peaceful possession and enjoyment of the said premises, until default be made in the payment of the debt aforesaid, with its interest aforesaid, or some part thereof: And when the said John B. Callikam shall make default in the payment of the said debt with interest as aforesaid, or any part thereof, then upon this further trust, that as soon after such default as the said M. G. Ely or his assigns, shall request, the said A. C. Ely shall proceed, at such time and place as he or they shall think best, to sell the said tract or parcel of land, or so much thereof as it may be necessary to sell at public auction, to the highest bidder for cash, having first given 30 days notice of the time and place of the sale in one or more public places, And out of the proceeds of such sale shall pay, first all costs and charges attending the execution of this trust: Secondly, shall pay to the said M. G. Ely or his assigns, the sum of fifty dollars, with all the interest that shall have accrued thereon as aforesaid, or so much of said debt and interest as shall then remain unpaid, and balance if any, shall pay to the said John B. Callikam, And if the said John B. Callikam shall well and truly pay the said debt, with interest thereon as aforesaid, and make no default therein, then this deed shall be void, or else shall remain in full force and virtue, Witness my hand and seal, this the date above written.

John B. Callikam

Virginia Lee County to wit:-

^{H. P. Thompson}
J. ~~Smith~~, a Justice of the Peace in and for the
County and State of aforesaid do certify that
John B. Callahan whose name is signed to the
foregoing deed bearing date the 16th day of August
1895 has acknowledged the same before me
in my County and State of aforesaid, Given
under my hand this the 16th day of
August 1895,

H. P. Thompson J. P.

Virginia Lee County to wit:-

In the office of the Clerk of said County
the 19th day of Aug 1895 this deed was
presented and together with the certificate
thereto annexed admitted to record.

Teste: J. V. F. Richmond Clerk

A. C. Ely Trustee

From } Deed.

John B. Callahan

Recorded in Deed
Book 31, Page 571.
J. V. F. Richmond Clerk


Examined

CAW

750
C 125
\$ 175

Filed for record
Aug 19, 1896

This deed made on the 8th day of June 1894
between Jan. Colahan the grantor of the one
part H. Lommas the Trust of the other part
witness that the said Jan Colahan the
grantor doth grant unto the said Joseph H.
Lommas the Trust the Bowling property a
certain tract or parcel of land containing
about 43 acres lying in the County of Lee
on the Chestnut ridge joining Maren Wolf
Abraham Barker, Arch Fulkerson, Josephus
Graybell and also one two horse wagon 2 horses
in trust to secure one hundred and seventy
dollars due Catharine Thomas, fifty dollars
due the 25th day of December next. paid in come
at 50 cts. per bushel and two thousand feet of
good lumber at 10 per thousand and one
hundred dollars to be paid in Twelve months
from this date the said John Colahan doth
covenant this property may be sold by the
Trust or those debts cum due, and not
satisfied, Witness The following signature and
seal.

John B. Colahan 

State of Virginia,
County of Lee } to wit.

I Jeremiah Warner a Justice of the said county
do certify the John Colahan who is signed
to the foregoing writing bearing date on the 8th
day of June 1894 has acknowledged the same before
me in my County of aforesaid, Given under
my hand this 8 day of June 1894,

Jeremiah Warner J. P.,

I hereby assign this deed of trust over
to Chas. E. Bayless to secure this note for \$89¹⁸
dated Sept. 12th, 94 & when said note is paid
The residue is the property of Catharine Thomas
Given under my hand and seal this 1st day
Sept. 1894
Catharine Thomas
J. H. Thomas.

Virginia Lee County to wit:
In the office of the clerk of said County, the 3rd
day of July 1895, this deed of trust was presented
and together with the certificate thereto annexed
admitted to record,

Teste S. V. H. Richmond Clerk.
A copy -
Teste S. V. H. Richmond Clerk.

(6)

1894/895-

1894/1895

Q

C 35-

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon *John B. Callahan, J. H.*
Thomas and Catherine Thomas

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held
for the said Court on the *1st* Monday in *December*, 189*8*, to answer a
bill in Chancery, exhibited against *them* in our said court by
M. G. Ely.

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-
house, the *4th* day of *November*, 189*8*, and in the

~~11~~ *120th* year of the Commonwealth.

A Copy Teste

A. B. Munsey Clerk

A. B. Munsey Clerk.

Bond having been given the defendant J^H
Thomas Trustee is enjoined and restrained
from selling the lands of J. B. Callahan the land
in the bill mentioned until the future order
of the Court.

Teste A. B. Mursey Clerk

VS. SUPENA
IN CHANCERY.

p. q.

To Rules,

Circuit Court.

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To the Sheriff of the County of Lee---Greeting:

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M. G. Ely

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A B Munsey Clerk.

A Copy Leste
A B Munsey Clerk

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Trustee is enjoined ^{and restrained} from selling the land of J B
Callahan the land in the bill mentioned
until the future order of the Court.

Teste J B Munnay Clerk

vs. SUPREMA
{ IN CHANCERY.

p. q.

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120th year of the Commonwealth.

A. B. Munsey Clerk.

M. G. Ely

SUPCENA

vs.

IN

CHANCERY.

J. H. Thomas Trustee

Ma. Orr p. q.

To 1st Dec Rules,

Circuit Court.

Executed in part
by delivering an office
of copy of the within
summons to J. H. Tho-
mas and Catherine
Thomas, this ^{not further executed} Dec
2 - 1895.

J. M. Weston Deputy
for Wm. P. Weston.

S. L. C.

Good having been given the defendant J. H. Thomas
character is informed and restrained from selling
the land of J. H. Thomas the land in the bill
mentioned, until the future order of the Court.
Date 1893 Munroe Clerk